UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,591	10/22/2003	Sundari Pokta	402844	6106

23548 7590 03/31/2010

LEYDIG VOIT & MAYER, LTD
700 THIRTEENTH ST. NW
SUITE 300
WASHINGTON, DC 20005-3960

EXAMINER	
CUMARASEGARAN, VERN	

ART UNIT	PAPER NUMBER
3629	

NOTIFICATION DATE	DELIVERY MODE
03/31/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lDCpatent@leydig.com
Chgpatent@leydig.com
Chgpatent1@leydig.com

Office Action Summary	Application No.	Applicant(s)	
	10/689,591	POKTA, SUNDARI	
	Examiner	Art Unit	
	VERN CUMARASEGARAN	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 November 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Justice (2001/0049630) in view of Bergs (US 2005/0175181 A1).

As to claim 1, Justice shows setting up a system server and running a system program on the server (paragraph 19);

installing and running a client program on said user's network access device (paragraph 20);

recording data of usage of said products/services by said user, the data comprising time spent on providers' sites (paragraph 67);

distributing calculated payments to said providers (Fig.1).

Although Justice shows calculating payment distribution to those providers provided products/services to said user over the fixed length billing period (paragraph 23), Justice does not expressly show calculating payment distribution by dividing the fixed user's fee into the respective percentage shares among them generally according to the usage element associated with each provider in relation to the total usage element associated with all providers in the same embodiment. However, Bergs shows

dividing the user's fee into shares among them generally according to the usage element associated with each provider in relation to the total usage element associated with all providers (paragraph 164). It would have been obvious to one of ordinary skill in the art to incorporate this method into the invention since the claimed invention is merely a combination of old elements and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As to claims 2 - 7, Justice shows recording data on network access device if user bypasses the system server (paragraph 67) and recording data on system server if user uses said products/services via the system server (paragraph 78) and payment distribution being calculated by system server and network access device (paragraph 78).

As to claims 8, Justice inherently shows the distributed payments summing up to the user's fee (paragraph 73).

As to claims 9 and 10, the recited formula results in allocating payments based on usage element of use by users for providers. Justice shows operators serving more users receiving higher portion of the fee (paragraph 89).

As to claims 11 and 12, Justice shows integrating the calculated payments in relation to all the users (paragraph 89) and being distributed by system server (paragraph 78).

As to claim 13, Justice shows data consolidated by network access device during a fixed interval (paragraph 78).

As to claim 14, Justice shows transmitting the payment distributions from the network access devices to system server for integration (Fig.1).

As to claim 15-21, the use of official notice is maintained because the applicant did not properly traverse the official notice. The applicant did not specifically point out the supposed errors in the official notice such as stating why the noticed fact is not considered to be common knowledge as required by MPEP 2144.03(c). The common knowledge statements are taken to be admitted prior art because the applicant did not adequately traverse the assertion of official notice.

As to claim 22, Justice shows setting up individual accounts (abstract).

As to claim 23, Justice shows the distribution method set up and operated by operators (paragraph 104).

Response to Arguments

Applicant's arguments filed November 24, 2009 have been fully considered but they are not persuasive. The assertion that Justice does not show installing and running a client program on said user's network access device is erroneous because a browser (paragraph 20) is considered to be a client program (which accesses a web server via the internet) that is installed on the user's network access device.

As to the applicant's arguments that Justice does not show a percentage distribution is moot since the new added reference, Bergs, shows a percentage distribution of the collected fee (paragraph 164).

As to claims 19-21, the use of official notice is maintained because the applicant did not properly traverse the official notice. The applicant did not specifically point out the supposed errors in the official notice such as stating why the noticed fact is not considered to be common knowledge as required by MPEP 2144.03(c). The common knowledge statements are taken to be admitted prior art because the applicant did not adequately traverse the assertion of official notice.

The 101 rejection has been withdrawn.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VERN CUMARASEGARAN whose telephone number is

(571)270-3273. The examiner can normally be reached on Monday - Friday 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vern Cumarasegaran/
Examiner, Art Unit 3629

/JOHN G. WEISS/
Supervisory Patent Examiner, Art Unit 3629